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7 Attorneys for Defendants GREGG RICE,
erroneously sued as "GREG RICE," AND
8 JULIANNA RICE, AKA JULI RICE, Trustees
of THE GREGG AND JULIANNA RICE 2017
9 REVOCABLE TRUST, DATED NOVEMBER 29, 2017

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 JAMES RUTHERFORD, an individual,
13 Plaintiff,

14 v.

15 SAIGON DISH, a business of unknown
16 form; GREGG RICE, erroneously sued
as "GREG RICE," AND JULIANNA
17 RICE, AKA JULI RICE, Trustees of THE
GREGG AND JULIANNA RICE 2017
18 REVOCABLE TRUST, DATED
NOVEMBER 29, 2017; and DOES 1-10,
19 inclusive,

20 Defendants.

CASE NO. 5:18-cv-02658-DSF-SP

**OPPOSITION OF DEFENDANTS
GREGG RICE, erroneously sued as
"GREG RICE," AND JULIANNA RICE,
AKA JULI RICE, Trustees of THE
GREGG AND JULIANNA RICE 2017
REVOCABLE TRUST, DATED
NOVEMBER 29, 2017 TO PLAINTIFF'S
MOTION FOR LEAVE TO AMEND
COMPLAINT**

**Date: August 26, 2019
Time: 1:30 p.m.
Courtroom: 7D
Judge: Hon. Dale S. Fischer**

Defendants GREGG RICE, erroneously sued as “GREG RICE,” AND JULIANNA RICE, AKA JULI RICE, Trustees of THE GREGG AND JULIANNA RICE 2017 REVOCABLE TRUST, DATED NOVEMBER 29, 2017 (hereinafter the “Rice Defendants”) hereby oppose the Plaintiff’s Motion for Leave to Amend his Complaint:

I. Plaintiff brings this Motion solely to prejudice the Rice Defendants by requiring it to incur expense for an unnecessary amendment.

The Rules provide that leave to amend should be freely given “when justice so requires.” FRCP 15(a)(2); *Runnion ex rel. Runnion v. Girl Scouts of Greater Chicago & Northwest Indiana*, 786 F3d 510, 519-520 (7th Cir. 2015). Granting or denial of leave to amend rests in the sound discretion of the trial court, and will be reversed only for abuse of discretion. *Swanson v. U.S. Forest Serv.*, 87 F.3d 339, 343 (9th Cir. 1996).

Litigation expenses caused by a proposed amendment can be considered prejudicial. *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F3d 708, 712 (9th Cir. 2001).

This proposed amended complaint does not further justice. It adds no new parties. The amended complaint does not add any new claims. It does add some additional facts to allegedly support the existing ADA and Unruh Civil Rights Act claims but also does also include some other superfluous and questionable allegations that actually do not further the goal of justice but confuse certain issues.

Specifically, the proposed amended complaint contains allegations discussing a certain prior case that appears to involve parties not involved in this case, despite the allegation that the Rice Defendants were defendants in that apparent Southern District of California case regarding the same Los Angeles County property. Prop. First Am. Compl., ¶¶ 29-30. The Rice Defendants are informed and believe Mr. Rutherford and his law firm are filers of numerous ADA complaints and the suspect the allegations was cut-and-pasted from another case.

II. The proposed amended complaint adds confusion with regard to defendant Saigon Dish.

Furthermore, the amended complaint would open up further confusion as to the

1 Saigon Dish defendant, who has not appeared or have been dismissed or defaulted in
2 this case to date. Saigon Dish is the tenant of the subject premises. The Rice Defendants
3 nor their counsel represent Saigon Dish. The status of Saigon Dish is unclear. Saigon
4 Dish has not been dismissed. In fact, Plaintiff was served copies of interrogatories, and
5 other written discovery propounded upon Saigon Dish on July 11, 2019. Montez Decl., ¶
6 2. It is currently unclear whether Saigon Dish is still a party to the case.

7 **III. The Notice filed and served in this Motion is defective.**

8 The Notice of Motion references the plaintiff CARMEN JOHN PERRI, a party
9 unknown.

10 **IV. Conclusion**

11 Based on the foregoing, the Rice Defendants request the Court deny the Plaintiff's
12 Motion for Leave to Amend.

13 Respectfully submitted,

14 Date: August 3, 2019

BOWER & ASSOCIATES, APLC

15 By: 
16 _____

17 Jeffrey D. Montez
18 Attorney for Defendants GREGG RICE,
19 erroneously sued as "GREG RICE," AND
20 JULIANNA RICE, AKA JULI RICE, Trustees of
21 THE GREGG AND JULIANNA RICE 2017
22 REVOCABLE TRUST, DATED NOVEMBER
23 29, 2017
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1 **PROOF OF SERVICE**

2 I, Jeffrey D. Montez, am over the age of 18 years and not a party to the within
3 action; my business address is 92 Argonaut Ste 120, Aliso Viejo, CA 92656.

4 On August 3, 2019, I caused the document described as **OPPOSITION OF**
5 **DEFENDANTS GREGG RICE, ERRONEOUSLY SUED AS “GREG RICE,” AND**
6 **JULIANNA RICE, AKA JULI RICE, TRUSTEES OF THE GREGG AND JULIANNA**
7 **RICE 2017 REVOCABLE TRUST, DATED NOVEMBER 29, 2017 TO PLAINTIFF’S**
8 **MOTION FOR LEAVE TO AMEND COMPLAINT** to be served upon the parties in case
9 number **5:18-cv-02658-DSF-SP** as follows:

10 *On all parties identified for Notice of Electronic Filing generated by the Court’s*
11 *CM/ECF system under the above-referenced case caption.*

12 Via Notice of Electronic Filing generated by the Court’s CM/ECF filing system,
13 pursuant to the Court’s Local Rules to the addresses listed above.

14 I declare under penalty of perjury under the laws of the United States of America
15 that the foregoing is true and correct.

16 Date: August 3, 2019 By: /s/ Jeffrey D. Montez

17 **PARTY SERVED:**

18 Joseph R. Manning, Jr., Esq. (State Bar No. 223381)

19 Michael J. Manning, Esq. (State Bar No. 286879)

20 Craig G. Côté, Esq. (State Bar No. 132885)

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